

AMENDED IN SENATE APRIL 30, 2001

SENATE BILL

No. 884

Introduced by Senator Escutia

February 23, 2001

An act to amend Section 361.4 of the Welfare and Institutions Code, relating to dependent children, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 884, as amended, Escutia. Dependent children.

Existing law requires, whenever a child may be placed in the home of a relative or a prospective guardian or other person who is not a licensed or certified foster parent, the county social worker to check the Child Abuse Index, as specified, to be requested from the Department of Justice. If the fingerprint clearance check indicates that the person has been convicted of a crime that would preclude licensure as a foster parent, the child may not be placed in the home, except that existing law authorizes the Director of Social Services, upon request from a county, to waive the application of these requirements, as specified.

This bill would revise the above-described exception to authorize the director to exempt a county from these requirements *by waiver*, upon the county's assurances that it will evaluate and grant individual appropriate criminal record exemptions for relatives of the child in accordance with specified standards. *The bill would require the department to monitor implementation of this waiver, to conduct an evaluation of the implementation of the waiver through random sampling, and to report its findings to the Legislature by January 1, 2004.* It also would authorize the State Department of Social Services

to evaluate a request from an Indian tribe for exemption from these requirements to allow placement into an Indian home, as specified.

The bill would provide that it shall take effect as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 361.4 of the Welfare and Institutions
2 Code is amended to read:
3 361.4. (a) Prior to placing a child in the home of a relative,
4 or the home of any prospective guardian or other person who is not
5 a licensed or certified foster parent, the county social worker shall
6 visit the home to ascertain the appropriateness of the placement.
7 (b) Whenever a child may be placed in the home of a relative,
8 or the home of any prospective guardian or other person who is not
9 a licensed or certified foster parent, the court or county social
10 worker placing the child shall cause a criminal records check to be
11 conducted by an appropriate governmental agency through the
12 California Law Enforcement Telecommunications System
13 pursuant to Section 16504.5. The criminal records check shall be
14 conducted with regard to all persons over the age of 18 years living
15 in the home, and on any other person over the age of 18 years, other
16 than professionals providing professional services to the child,
17 known to the placing entity who may have significant contact with
18 the child, including any person who has a familial or intimate
19 relationship with any person living in the home. A criminal records
20 check may be conducted pursuant to this section on any person
21 over the age of 14 years living in the home who the county social
22 worker believes may have a criminal record. Within five judicial
23 days following the criminal records check conducted through the
24 California Law Enforcement Telecommunications System, the
25 social worker shall ensure that a fingerprint clearance check of the
26 relative and any other person whose criminal record was obtained
27 pursuant to this subdivision is initiated to ensure the accuracy of
28 the criminal records check conducted through the California Law
29 Enforcement Telecommunications System and shall review the
30 results of any criminal records check to assess the safety of the
31 home.



(c) Whenever a child may be placed in the home of a relative, or a prospective guardian or other person who is not a licensed or certified foster parent, the county social worker shall cause a check of the Child Abuse Index pursuant to subdivision (a) of Section 11170 of the Penal Code to be requested from the Department of Justice. The Child Abuse Index check shall be conducted on all persons over the age of 18 years living in the home.

(d) (1) If the fingerprint clearance check indicates that the person has no criminal record, the county social worker and court may consider the home of the relative, prospective guardian, or other child who is not a licensed or certified foster parent for placement of a child.

(2) If the fingerprint clearance check indicates that the person has been convicted of a crime that would preclude licensure under Section 1522 of the Health and Safety Code, the child shall not be placed in the home, unless the county has been granted a criminal records exemption pursuant to paragraph (3) of this subdivision.

(3) Upon request from a county, the Director of Social Services may waive the application of this section to a county that provides the department with assurances that it shall evaluate and grant appropriate individual criminal record exemptions for relatives of the child in accordance with the standards set forth in paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code. The director shall grant or deny the waiver within 14 days of receipt of the county's request. *The department shall monitor county implementation of the waiver granted under this paragraph to ensure that counties are evaluating and granting individual criminal record exemptions according to the standards set forth in paragraph (1) of subdivision (g) of Section 1522 of the Health and Safety Code. The department shall conduct an evaluation of the implementation of this waiver, through random sampling and verification of county review of individual criminal record exemptions. The department shall report its findings to the Legislature by January 1, 2004.*

(e) Nothing in this section shall preclude a county from conducting a criminal background check that the county is otherwise authorized to conduct using fingerprints.

(f) Upon request from an Indian tribe, the State Department of Social Services shall evaluate an exemption request, if needed, to allow placement into an Indian home that the tribe has designated

1 for placement under the Indian Child Welfare Act (25 U.S.C. Sec.
2 1901 et seq.) that would otherwise be barred under this section.
3 This requirement is applicable whether or not the county has been
4 issued a waiver pursuant to paragraph (3) of subdivision (d).
5 Nothing in this subdivision limits the duty of a county social
6 worker to evaluate the home for placement or to gather
7 information needed to evaluate an exemption request.

8 SEC. 2. This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety
10 within the meaning of Article IV of the Constitution and shall go
11 into immediate effect. The facts constituting the necessity are:

12 In order to timely implement this act in a manner that will allow
13 expeditious placements of foster children in the homes of relatives,
14 it is necessary that this act take effect immediately.

